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IDAHO PUBLIC
UTILITIES COMMISSION

Appearing Pro Se

BEFORE THE IDHAO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
QWEST CORPORATION AND MCLEODUSA)
TELECOMMUNICATIONS SERVICES, INC.)
FOR APPROVAL OF AN AMENDMENT TO AN)
INTERCONNECTION AGREEMENT FOR THE)
STATE OF IDAHO PURSUANT TO 47 U.S.C. §)
252(e). (PRIOR CASE NO. QWE-T-00-7)**

CASE NO. QWE-T-02-17

**IN THE MATTER OF THE APPLICATION OF)
QWEST CORPORATION AND ESCHOLON)
TELECOM, INC. FOR APPROVAL OF AN)
AMENDMENT TO AN INTERCONNECTION)
AGREEMENT FOR THE STATE OF IDAHO)
PURSUANT TO 47 U.S.C. § 252(e). (PRIOR)
CASE NO. QWE-T-00-13))**

**IN THE MATTER OF THE APPLICATION OF)
QWEST CORPORATION AND COVAD)
COMMUNICATIONS COMPANY FOR)
APPROVAL OF AN AMENDMENT TO AN)
INTERCONNECTION AGREEMENT FOR THE)
STATE OF IDAHO PURSUANT TO 47 U.S.C. §)
252(e). (PRIOR CASE NO. USW-T-99-3))**

COMMENT BY PAGEDATA

PageData hereby submits its comments regarding the above case. The local Idaho market has been damaged by unfilled interconnection agreements such as the McLeod, Eschelon, and Covad agreements that are now being presented for approval. This has hindered competition in Idaho, which has the effect of higher prices for the Idaho consumer.

The Idaho Commission had deferred any further investigation in the unfiled agreements until the FCC ruled on Qwest's Petition for a Declaratory Ruling on the Scope of the Duty to File and Obtain Prior Approval of Negotiated Contractual Arrangements Under Section 252(a)(1), WC Docket No. 02-89. On October 4, 2002, the FCC issued its Memorandum Opinion and Order No. 02-276. The FCC said, "The state commissions should be responsible for applying, in the first instance, the statutory interpretation we set forth today to the terms and conditions of specific agreements."¹ The FCC also said, "We find that an agreement that creates an *ongoing* obligation pertaining to resale, number portability, dialing parity, access to rights-of-way, reciprocal compensation, interconnection, unbundled network elements, or collocation is an interconnection agreement that must be filed pursuant to section 252(a)(1)."² The FCC further stated:

We find that agreements addressing dispute resolution and escalation provisions relating to the obligations set forth in sections 251(b) and (c) are appropriately deemed interconnection agreements. The purpose of such clauses is to quickly and effectively resolve disputes regarding section 251(b) and (c) obligations. The means of doing so must be offered and provided on a nondiscriminatory basis if Congress' requirement that incumbent LECs behave in a nondiscriminatory manner is to have any meaning.³

The agreements at issue with McLeod, Covad, and Eschelon are not all of the unfiled interconnection agreements that Qwest had with McLeod, Covad, and Eschelon including oral, expired, and cancelled agreements. There are other unfiled interconnection agreements (including oral, expired, and cancelled) with other carriers that are applicable to Idaho but have not been filed. PageData has attached as Exhibit 1 a Declaration of Kenneth L. Wilson (Consultant and Technical Witness with Boulder Telecommunications Consultants, LLC) filed

¹ FCC Memorandum Opinion and Order No. 02-276 dated October 4, 2002, at ¶7.

² FCC Order No. 02-276, at ¶8.

³ FCC Order No. 02-276, at ¶9.

on behalf of AT&T in FCC Docket No. 02-314 that details a comparison of interconnection agreements that have recently been filed in several states. It shows that agreements have not been filed in each relevant state.

It was Qwest's position that a multi-state agreement did not have to be filed in each state the agreement covered. This is contrary to 47 CFR § 252. Metrocall, Arch, and PageNet (Paging Network) were operating in the state of Idaho without an interconnection agreement filed in Idaho until 2002, 2000, and 2000 respectively (from information received from the Idaho Commission), but had interconnection agreements covering all of Qwest's 14 states filed in other states. As an alternative, Qwest would have the Commission believe that even though a carrier has an interconnection agreement covering all 14 states the carrier would pay higher rates under the tariff if the interconnection agreement were not filed in that state. This is contrary to the secret settlement portions of the agreements that covered all 14 states (See Exhibit 2).

Qwest has made this issue complex by design. The Idaho Commission should not permit local Idaho carriers to continue suffering this discrimination and should allow carriers to immediately pick and choose from the provisions in these agreements per 47 CFR § 51.809. The pick and choose rule implemented Section 252(i). There is a big difference between adoption of a complete interconnection agreement, as advocated by ILECS, and picking and choosing provisions from an interconnection agreement as envisioned by Congress, the Supreme Court, and the FCC.

The Commission should not take a lack of numerous responses in this matter meaning that other carriers are not interested parties. It is expensive and time-consuming dealing with the Idaho Commission and its rules and procedures. Qwest has excellent legal representatives that know the Idaho Commission rules and regulations very well. The large companies (with legal

representation equal to Qwest) that would have complained the most already received favorable provisions they wanted in special agreements and a majority of their disputes with Qwest have been resolved. The small carriers that have not received the benefit of the secret agreements do not have all the resources of a company such as Qwest.

Qwest attempts to keep these favored provisions from other carriers by saying many of the agreements are already expired or trying to have the agreements terminated. This furthers the discrimination against carriers not a party to the special interconnection agreements. Any interconnection agreement that Qwest has been operating under (whether currently in effect or not) but has not previously filed with the Idaho Commission should immediately be made available for other carriers to pick and choose. This will help rectify the discrimination that has occurred.

INEXPENSIVE INVESTIGATION

Qwest has done a disservice by not providing all Idaho carriers nondiscriminatory access to Qwest's network. Qwest has not recognized that it has discriminated against Idaho carriers in favor of large multi-state carriers. To rectify the situation the Idaho Commission needs to do the following:

1. The Idaho Commission needs to order Qwest to file all interconnection agreements, within 10 days, that are applicable to Idaho including those agreements that Qwest has recently filed in Iowa, New Mexico, Arizona, and Minnesota. This includes agreements with CMRS, CLEC, IXC's, etc. The provisions in these agreements should be immediately available for pick and choose or adoption by other carriers.

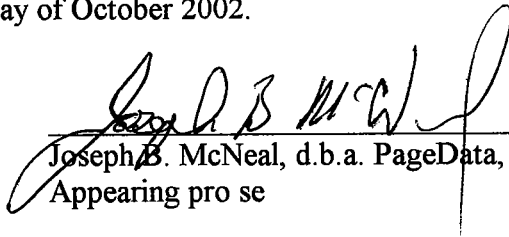
2. The Idaho Commission should initiate a letter to all carriers in Idaho requiring them to send in, within 30 days, a copy of all interconnection agreements, all interconnection documents, or letter agreements associated with Qwest that have not previously been filed with the Idaho Commission.
3. The Idaho Commission should require Qwest to file all cancelled interconnection agreements and give Idaho carriers an opportunity to pick and choose the terms and conditions out of the cancelled agreements.
4. The Idaho Commission does not have the ability by statute to make a discriminated carrier whole by requiring Qwest to pay damages. Therefore, the Idaho Commission needs to come up with a very broad definition of what an interconnection agreement is. This will ensure that local Idaho carriers will not be disadvantaged again with any scheme of this kind.
5. The Idaho Commission should contact the other states (Iowa, Minnesota, New Mexico, and Arizona) that have investigated Qwest for unfilled interconnection agreements and have the other states send both the redacted and non-redacted interconnection agreements that Qwest filed with those states. The Idaho Commission should cross-reference the agreements that Qwest has recently filed in other states and if any of the interconnection agreements reference Idaho or say they are applicable in all of Qwest's 14 states then the Idaho Commission should require Qwest to file the interconnection agreements in Idaho and make them immediately available for others to adopt through pick and choose.
6. The Idaho Commission should require Qwest to reveal all past and present oral agreements with carriers and have those agreements presented to the Idaho

Commission within 30 days so other carriers may pick and choose from those provisions.

7. If Qwest and the other carriers do not respond in an appropriate manner, the Idaho Commission needs to turn the uncooperative carriers over to the Idaho Attorney General's office.
8. The Idaho Commission should remove Qwest's confidentiality games in connection with the agreements. The Idaho Commission should not use overly burdensome procedures on confidentiality stipulations to procedurally block the immediate availability of interconnection agreements or provisions by other carriers. The burden of proof should be on Qwest to show why confidentiality is needed since most of the agreements are publicly available now.

This cross-reference is the most time and cost efficient way to ensure that all previously unfiled interconnection agreements with Covad, McLeod, Eschelon, and others are available to Idaho carriers without an expensive investigation. The terms and conditions out of all of the previously unfiled interconnection agreements should be immediately available to other carriers to adopt. This would be in compliance with Qwest's public promise to file all interconnection agreements on a going forward basis to allow other carriers to adopt.

Respectfully submitted this 25th day of October 2002.



Joseph B. McNeal, d.b.a. PageData,
Appearing pro se

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of October, 2002, I caused to be served a true and correct copy of the foregoing COMMENTS BY PAGEDATA by hand delivery to the following:

Jean Jewell
Idaho Public Utilities Commission
472 West Washington
Boise, ID 83702

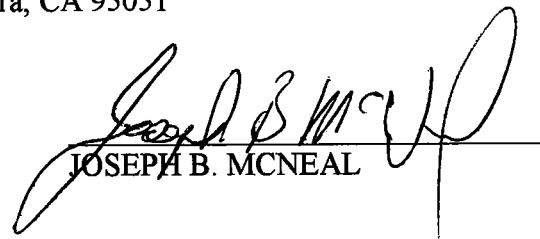
I HEREBY CERTIFY that on this 25th day of October, 2002, I caused to be served a true and correct copy of the foregoing COMMENTS BY PAGEDATA by first class mail to the following:

Mary S. Hobson
Stoel Rives LLP
101 S. Capitol Blvd., Suite 1900
Boise, ID 83702-5958

Lauraine Harding
Senior Manager, Interconnect Negotiation
McLeodUSA
6400 C Street SW, Box 3177
Cedar Rapids, IA 52406-3177

Dennis Ahlers, Senior Attorney
Eschelon Telecom, Inc.
730 Second Avenue, South Suite 1200
Minneapolis, MN 55402

Brad Sonnenberg
Covad Communications Company
3420 Central Expressway
Santa Clara, CA 95051



JOSEPH B. MCNEAL

EXHIBIT 1

DECLARATION OF KENNETH L. WILSON

**Before the
Federal Communications Commission
Washington, D.C. 20554**

EXHIBIT

1

In the Matter of)
)
)

**Qwest Communications International Inc.,
Consolidated Application For Authority To
Provide In-Region, InterLATA Services In The
States Of Colorado, Idaho, Iowa, Montana,
Nebraska, North Dakota, Utah, Washington and
Wyoming**)
)

WC Docket No. 02-314

DECLARATION OF KENNETH L. WILSON

1. My name is Kenneth L. Wilson, and I am a senior Consultant and Technical Witness with Boulder Telecommunications Consultants, LLC. My business address is 970 11th Street, Boulder, Colorado, 80302. I am submitting this affidavit on behalf of AT&T.

2. My education and relevant work experience are as follows. I received a Bachelors of Science in Electrical Engineering from Oklahoma State University in 1972, and I received a Masters of Science in Electrical Engineering from the University of Illinois in 1974. In addition, in 1976, I completed the course work required to obtain my Ph.D. in Electrical Engineering from the University of Illinois. For 15 years before coming to Denver, I worked at Bell Labs in New Jersey in a variety of positions. From 1980 through 1982, I worked as a member of the network architecture and network planning team at Bell Labs for AT&T's long distance service. From 1983 through 1985, I was a member of the first AT&T Bell Labs cellular terminal design team. From 1986 through 1992, I led a Bell Labs group responsible for network

performance planning and assurance for AT&T Business Markets. From 1992 through 1993, I was a team leader on a project to reduce AT&T's capital budget for network infrastructure.

3. From January 1994 through May 1995, I led a team at Bell Labs investigating the various network infrastructure alternatives for entering the local telecommunications market. From 1995 through the spring of 1998, I was the Business Management Director for AT&T in Denver, managing one of the groups responsible for getting AT&T into the local market in Qwest's 14-state territory. I was the lead technical negotiator for AT&T with US WEST (now Qwest), negotiating the terms of interconnection agreements in each of US WEST's 14 states. In addition, I was also the senior technical manager in Denver working on local network and interconnection planning, OSS interface architectures and the technical aspects of product delivery.

4. As noted above, I am currently a consultant and technical witness with Boulder Telecommunications Consultants, LLC. In this capacity, I have worked with several companies, including AT&T, on all aspects of interconnection, unbundled elements, collocation and resale issues, among other things. I was the lead technical witness for AT&T in the section 271 workshops in Qwest's region. In this capacity, I attended a total of 41 multi-day Qwest 271 workshop sessions and several hearings. My credentials are a matter of record in the Commission's prior proceedings regarding Qwest's request for authority under Section 271, including WC Docket No. 02-148.

5. I am qualified to analyze the agreements that Qwest engaged in with various CLECs over the past three years because of my familiarity with the Qwest SGAT and its

development, the process of negotiating interconnection agreements with Qwest and the workshops conducted by the state commissions.

6. The purpose of my testimony is to demonstrate that Qwest has not disclosed all of the secret interconnection agreements that are currently in effect in the nine states for which Qwest is seeking Section 271 approval. Additionally, a variety of these secret agreements included provisions that barred Qwest's secret deal partners from criticizing Qwest's interconnection performance in state and federal Section 271 proceedings. I have previously submitted testimony in this proceeding that supported the claim that Qwest's secret deals contained discriminatory terms, silenced secret deal partners causing a substantial impact on the state proceedings, and substantially skewed the results of the third party tests of Qwest's operations support systems.

7. Qwest has asserted that it is making all of its "unfiled" agreements in the nine states covered by its Application available for review by the Commission and competitive local exchange carriers ("CLECs") by posting those previously filed secret deals on its Internet website. My review of the secret deals that Qwest has posted on its website confirms that Qwest has not yet done so. Qwest's website contains twenty six (26) separate interconnection agreements (Qwest creates the impression that it has posted more than 26 agreements by posting multi-state agreements separately for each state in which those agreements are in effect). By contrast, the current active investigations into Qwest's secret deals (by three separate state commissions in Arizona, Iowa and Minnesota, and by Qwest's admissions in FCC ex parte filings) confirm that at least 105 separate arrangements between Qwest and various CLECs are available for review – some publicly available, but the majority available only through an agreement to review the documents under confidential seal. Based on my review of these

arrangements, I have determined that most of them are interconnection agreements that relate to the states in Qwest's pending nine-state Section 271 application. Thus, Qwest has not come close to disclosing all of the relevant interconnection agreements.

8. In order to assist the Commission in evaluating the claims concerning Qwest's practice of entering secret, discriminatory interconnection agreements, I have prepared a matrix, attached to this declaration, that identifies and catalogues Qwest agreements that are available in different venues. I used documents from the Minnesota proceeding on unfiled agreements, the Iowa proceeding on unfiled agreements, the Colorado proceeding on unfiled agreements, and the Arizona proceeding on unfiled agreements. I also utilized agreements that Qwest filed on its web site. I have limited the matrix to only those agreements that are interconnection agreements and have terms and conditions that have not to my knowledge been made available to other CLECs.

9. The first column in the matrix, "Company", lists the name of the CLEC with which Qwest made the agreement. The second column, "Date", lists the effective date of the agreement. The third column, "Agreement", lists the title of the agreement. The fourth column, "On Qwest Web Site", indicates whether or not the agreement is on the Qwest web site. The fifth column, "Public", indicates whether the agreement has been made available to the public, with notes when AT&T was given permission to use the contract even though it is not generally available to the public. The 6th column, "Expiration Date", lists any expiration that is shown on the agreement. However, subsequent agreements could serve to extend or replace an agreement before it expired. This column also lists situations where, to my knowledge or information, Qwest terminated the agreement by terms that were contained in a second agreement. The seventh column, "Should Have Been Filed", lists who has requested that the contract be filed. In

the Minnesota proceeding, the Department of Commerce and the Administrative Law Judge hearing the case have requested that the contracts be filed. In Arizona, the Arizona Commission Staff has requested that Qwest file many of the contracts (These agreements are marked as "AZ Staff"). There are a number of other contracts where AT&T has filed or will file requests that the contracts should be filed. The eighth column, "Jurisdiction", lists the states where the contract is effective. When the indication in that column is "all" the indication is that the contract is valid in all 14 Qwest states. The final column, "Discriminatory Terms", lists the type of discriminatory terms that are in the contract.

10. To determine whether a contract is an interconnection agreement, I have read the FCC's recent ruling on this issue. To determine whether a contract has discriminatory terms, I have relied on my extensive knowledge of Qwest's positions and policies on the issues as set forth in their SGATs, in testimony by Qwest witnesses in hearings and workshops, and on other information available on the Qwest web site in the form of product catalogues.

11. Qwest has agreed that it would consent to AT&T disclosing to this Commission the agreements that are subject to the state protective orders; AT&T would be required, however, to obtain consent from the other party to the agreement in question, or have some other basis for its disclosure. While AT&T has obtained consent from Eschelon to show the FCC the secret deal arrangements that it entered with Qwest, it has not had such success with certain other CLECs, who have withheld their consent or been beyond AT&T's reach. In order to abide by the protective order that covers a particular contract where a release was not available, I have blanked out information in the following columns: Expiration Date, Jurisdiction, and Discriminatory Terms. The fact that a particular contract exists, along with the date of the

contract and the contract title have been disclosed in the Arizona proceeding and so can be revealed here.

12. I have included only agreements that appear applicable in some or all of the nine states at issue in the Qwest III Application and that contain terms or conditions that I believe were not made available to other CLECs. Interconnection agreements that should have been filed but do not appear to contain discriminatory terms were excluded from the matrix. (Many of the agreements that were excluded from the matrix should have been filed as interconnection agreements). I have provided only information that is publicly available. AT&T expects that the Arizona Corporation Commission "ACC" proceeding will conclude during the 90-day period for considering the Qwest III application, forcing these parties to end their campaign of secrecy. Of course, the FCC has the authority to require the filing of these agreements on a confidential basis at the FCC for its own review if it so chooses.

13. The summary of my review is contained in a matrix of forty seven (47) discriminatory agreements that were at some point part of Qwest's practice of engaging in secret deals. While Qwest has posted sixteen (16) of these agreements on its website, numerous other agreements remain "secret" *to this day*-- either unfiled or otherwise unavailable. Those continuing secret agreements include seventeen (17) interconnection agreements that the ACC Staff has recommended be filed and made public, and fifteen (15) additional agreements that AT&T continues to argue also constitute interconnection agreements in the state proceedings.

14. As indicated above, Qwest has posted to its website 26 unique agreements for the nine states in its filing (of which 16 are in the matrix). The title of the web page is "Provisions Available for Opt In -V6.0 and the URL for the site is:

<<http://www.qwest.com/wholesale/clecs/provisionoptin.html>>. Qwest has been claiming that it is posting the agreements to its website so that other CLECs can take advantage of the terms that Qwest has provided to other, preferred CLECs in the past. The catch is that in these agreements Qwest is selecting the provisions that the CLEC can opt into. Qwest is only providing "selected" provisions from the 26 agreements:

Selected provisions are available for all CLECs to review and request as Opt Ins.
The selected opt in provisions are marked and bracketed.

Qwest selected the provisions that would be available without discussion with CLECs.

Generally, opt in is applicable to an entire contract, not to selections that Qwest makes. In the agreements on the website, Qwest makes the following restrictions:

A CLEC may request only those services that are being provided to another CLEC under the posted agreement on a going-forward basis. This offer does not apply to provisions of these agreements that have expired, that involved payments made in settlement of past disputes, or that involve matters unrelated to Section 251(b) and (c) of the Telecommunications Act.

Qwest has predetermined, without discussion, negotiation or state ruling, which sections of each contract Qwest thinks meets these restrictions. This is hardly the availability of provisions that I would have expected, especially given the limited number of agreements that Qwest has listed.

15. Moreover, Qwest has disgorged the agreements contained in the attached matrix very slowly and very reluctantly over the past nine months. The only state that is looking at the full complement of agreements is Arizona. Minnesota did an in-depth review of a dozen agreements out of a total of over one hundred and found all of them to be discriminatory on multiple issues. The nine states in the current filing looked at a minimal number of agreements in a very perfunctory manner. Qwest's assurances that they were divulging every relevant

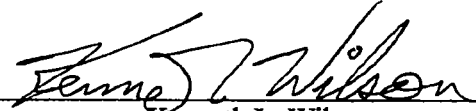
agreement have proven, politely speaking, to be inaccurate. To the extent states believed this message from Qwest, their review of the issues is woefully incomplete.

16. In a previous declaration I spent some time reviewing the discriminatory issues that impacted CLECs and the 271^s workshops. My review in that declaration was limited to a mere handful of the 47 agreements contained in the matrix that I present here. Moreover, that review (and the review catalogued in the matrix) does not consider the impact of Qwest's practice of entering secret oral agreements and connecting disparate written agreements through oral understandings that provide, in the aggregate, discriminatory treatment to CLECs. There is no doubt in my mind, having attended over 41 Qwest 271 workshops, that if the content of these agreements had been known, the workshops would have included numerous additional issues and the outcomes could easily have been very different. While we cannot turn back the clock, Qwest can be required to divulge all of the agreements and explain for each agreement why all CLECs should not be able to take advantage of any provision they choose. Only then will Qwest have made a clean break from its entry into numerous secret deals.

17. Although numerous other secret deals are not on the website and currently covered by protective orders, the staff of the Arizona Corporation Commission ("ACC") has determined that 28 of those confidential secret agreements should have been filed in Arizona as interconnection agreements. And I have identified 22 additional agreements that I believe should have been filed in Arizona as interconnection agreements. Filing of these agreements should be required by the ACC Staff as they complete their review process. I also can confirm that many of the agreements available for review in Arizona and other state proceedings are effective in the states for which Qwest currently is seeking Section 271 approval, including Colorado, Idaho, Iowa, Nebraska and North Dakota, Utah and Washington.

I hereby declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge and belief.

Executed on October 15, 2002


Kenneth L. Wilson

EXHBIT 2

**EXCERPTS FROM INTERCONNECTION AGREEMENTS
NOT FILED IN IDAHO**

RECORDED
ORIGINAL
DO NOT REMOVE

FILED WITH
Executive Secretary

JUL 25 2002

IOWA UTILITIES BOARD

DATE:

July 29, 2002

COMPANY NAME:

Qwest Corporation

EXHIBIT

2

SUBJECT MATTER:

Amended Agreement for
Interconnection

PERSON TO CONTACT:

Ione E. Wilkens
925 High Street, 9 S 9
Des Moines, Iowa 50309
515 286-7336
515-286-6128 - Facsimile

INITIAL FILING:

No

DOCKET NO:

NIA-99-35 (FCU-02-2)

CONFIDENTIAL BILLING SETTLEMENT AGREEMENT

This Confidential Billing Settlement Agreement ("Agreement"), dated and effective June 29, 2001, is between Qwest Corporation ("Qwest") and MCI WORLDCOM Network Services, Inc., on behalf of itself and its affiliates and subsidiaries (collectively "WorldCom") (Qwest and WorldCom collectively referred to as the "Parties") who hereby enter into this Confidential Billing Settlement Agreement with regard to the following:

RECITALS

1. Qwest is an incumbent local exchange carrier ("ILEC") operating in its 14-state region.
2. WorldCom is a competitive local exchange carrier ("CLEC") operating in Qwest's 14-state region and an interexchange carrier.
3. Qwest and WorldCom provide and bill each other for various services and facilities provided to one another pursuant to various agreements, including interconnection agreements entered into pursuant to the federal Telecommunications Act of 1934 as amended ("Act"), and, for some services, under state and federal tariffs.
4. Certain disputes have arisen between the Parties in connection with certain charges assessed by the Parties and certain services provisioned under the aforementioned agreements and tariffs and because of disagreements over the effect, meaning and impact of various state and federal regulatory decisions.
5. In an attempt to finally resolve the specific billing and provisioning disputes

identified herein that exist between the Parties through the date of the execution of this Agreement, and to avoid delay and costly litigation, and for valuable consideration, the Parties voluntarily enter into this Agreement and hereby agree to the following.

SETTLEMENT AGREEMENT

1. In settlement of the disputes, claims and controversies referenced above and described more fully below, Qwest agrees to a one-time payment to WorldCom in the amount of \$16.2 million (\$16,200,000). Qwest will wire to WorldCom such amount by July 16, 2001. As consideration for this payment and for the other commitments and waivers by Qwest and WorldCom set forth herein, the Parties agree to the following provisions.

2. **EEL.** WorldCom has claimed that approximately 2,500 private line circuits provided by Qwest to WorldCom in various states should have been converted to the Unbundled Network Element Platform known as EEL from tariffed services during the time period between September 4, 1997 and the date of this Agreement, and therefore disputes the billing associated with these circuits. Qwest denies WorldCom's assertions and the Parties dispute their legal obligations concerning WorldCom's request to convert the tariffed services to EEL. As part of this Agreement and to resolve any disputes related to this issue, WorldCom has agreed to waive any and all claims it may have with respect to charges assessed by Qwest for these circuits through the effective date of this Agreement. Following the effective date of this Agreement, WorldCom agrees that in the event it desires to convert circuits to Unbundled Network Elements (including EELs), WorldCom will submit orders and

RECORDED
ORIGINAL
DO NOT REMOVE

FILED WITH
Executive Secretary

JUL 29 2002

IOWA UTILITIES BOARD

DATE: July 29, 2002

COMPANY NAME: Qwest Corporation

SUBJECT MATTER: Amended Agreement for
Interconnection

PERSON TO CONTACT: Ione E. Wilkens
925 High Street, 9 S 9
Des Moines, Iowa 50309
515 286-7336
515-286-6128 - Facsimile

INITIAL FILING: No

DOCKET NO: NIA-00-32 (FCU-02-2)

CONFIDENTIAL BILLING SETTLEMENT AGREEMENT

THIS CONFIDENTIAL BILLING SETTLEMENT AGREEMENT ("Confidential Billing Settlement Agreement"), by and between U S WEST Communications, Inc. ("U S WEST"), and Arch Communications Group, including MobileMedia Communications, Inc. and Mobile Communications Corporation of America (collectively "MobileMedia") and Arch Paging, Inc. and Arch's other subsidiaries, affiliates and assigns (collectively "Arch"), is a complete and final settlement of the disputes described herein. U S WEST and Arch are referred to herein jointly as the "Parties" or individually as a "Party."

1. DESCRIPTION OF THE RELATIONSHIP OF THE PARTIES AND DISPUTES.

- a. Arch and U S WEST have entered into various interconnection arrangements pursuant to which the Parties' respective communications networks are interconnected in the states of Arizona, Colorado, Idaho, Iowa, Minnesota, Nebraska, New Mexico, North Dakota, Oregon, Utah, Washington and Wyoming. These interconnection arrangements are referred to herein as "Previous Interconnection Arrangements."
- b. In connection with the Previous Interconnection Arrangements, Arch asserts that U S WEST must refund certain amounts paid by Arch to U S WEST for interconnection facilities. U S WEST asserts that Arch must pay U S WEST for interconnection facilities provided by U S WEST to Arch. Arch has also claimed the right to receive reciprocal compensation payments from U S WEST, and U S WEST has denied Arch's claims. These billing disputes, which cover the period ending on July 1, 2000 (i.e., the effective date of the new interconnection agreements described in Section 3 below), are referred to herein as the "Billing Disputes."
- c. On December 3, 1998, Arch Paging, Inc., filed a formal complaint (E-98-05) with the Federal Communications Commission ("FCC") complaining of certain actions by U S WEST. On January 29, 1999, MobileMedia's predecessor company, also known as MobileMedia Communications, Inc., filed an informal complaint (IC-99-04735) with the FCC against U S WEST. The Arch Paging, Inc. and MobileMedia complaints are referred to herein as the "FCC Complaints."

2. PURPOSE OF CONFIDENTIAL BILLING SETTLEMENT AGREEMENT. The Parties desire to resolve permanently and unalterably their differences and settle all their disagreements regarding the Billing Disputes. The Parties also desire to provide for new interconnection agreements to govern the interconnection of the Parties' networks on a going forward basis. The Parties intend that this Confidential Billing Settlement Agreement settles, resolves and extinguishes any and all claims by the Parties relating to or arising out of the Billing Disputes prior to the Effective Date of this Agreement. The Parties also intend that this Confidential Billing Settlement Agreement settles and resolves all matters at issue in the FCC Complaints.

3. INTERCONNECTION AGREEMENTS. Arch agrees to adopt under Section 252 (i) of the 1996 Telecommunications Act the interconnection

agreements between U S WEST and AirTouch Paging, which were executed on October 18, 1999, in the following nine states: Arizona, Colorado, Iowa, Minnesota, Nebraska, New Mexico, Oregon, Utah and Washington. The Parties also agree to execute new interconnection agreements using the aforementioned AirTouch Paging interconnection agreements as a template in the following five states: Idaho, Montana, North Dakota, South Dakota, and Wyoming. The Parties agree to execute these interconnection agreements within three (3) business days from the execution of this Confidential Billing Settlement Agreement. Each of these new interconnection agreements will be filed with the relevant state public utility commission for approval. The new interconnection agreements will have an effective date of July 1, 2000, and a termination date of January 18, 2002.

4. **FINAL SETTLEMENT.** The Parties hereby fully, completely, and unalterably settle any and all claims by the Parties relating to or arising out of the Billing Disputes and the FCC Complaints. The Billing Disputes consist of any and all disputes involving the accounts listed in Exhibit 1 hereto for the period up to and including April 30, 2000.
5. **PAYMENT.** Within five (5) business days from the date of the request for dismissal of the FCC Complaints as required by Section 6 below, U S WEST shall pay Arch the sum of \$ 1,500,000.00 U.S. dollars. Further, within sixty (60) days from execution of this Confidential Billing Settlement Agreement, U S WEST agrees to provide Arch with bill credits totalling \$ 2,700,000 U.S. dollars. These bill credits, along with the payment of the \$ 1,500,000 U.S. dollars, will settle all billing issues for the accounts listed on Exhibit 1 for the period ending on April 30, 2000; provided, however, U S WEST agrees not to take any action, whether before a court, regulatory agency, or other adjudicatory body, to collect any amounts it later claims are owed by Arch under the account numbers listed in Exhibit 1 through April 30, 2000. Additionally, for the period from May 1, 2000 to the effective date of the new interconnection agreements described in Section 3 above, U S WEST agrees not to bill Arch for interconnection facilities, or, if it renders such bills in error, to provide Arch with a credit for any amounts billed to it for interconnection facilities during this period; provided, however, Arch agrees to continue paying appropriate charges for non-interconnection facilities and services, including, but not limited to, Wide Area Calling services and private lines, for as long as it obtains such facilities and services from U S WEST. Arch also agrees not to bill U S WEST for reciprocal compensation until the effective dates of the new interconnection agreements described in Section 3 above. These payment arrangements shall be in consideration for settlement of all disputes in connection with the Billing Disputes and dismissal of the FCC Complaints.
6. **DISMISSAL OF FCC COMPLAINTS.** Within five (5) business days from the execution of this Confidential Billing Settlement Agreement, Arch will request the FCC to dismiss with prejudice the FCC Complaints by making filings substantially in the form of Exhibits 2 and 3 hereto; provided, however, that, if Arch does not request withdrawal of the FCC Complaints by the close of business on June 19, 2000, Arch agrees to notify the FCC of its intent to request withdrawal of the FCC Complaints by the close of business on June 19, 2000. In the unlikely event that the request to dismiss the FCC Complaints is refused, and U S WEST is required

to pay any type of restitution to Arch once the FCC Complaints are resolved by the FCC, including, but not limited to, damages and interest, Arch agrees that pursuant to Section 5 above, U S WEST is relieved of any and all obligation to provide Arch with such restitution.

7. **RELEASE.** Arch and U S WEST do hereby release and forever discharge the other and the other's associates, owners, stockholders, predecessors, successors, agents, directors, officers, partners, employees, representatives, employees of affiliates, employees of parents, employees of subsidiaries, affiliates, parents, subsidiaries, insurance carriers, bonding companies and attorneys, from any and all manner of action or actions, cause or causes of action, in law, under statute, or in equity, suits, appeals, petitions, debts, liens, contracts, agreements, promises, liabilities, claims, affirmative defenses, offsets, demands, damages, losses, costs, claims for restitution, and expenses, of any nature whatsoever, fixed or contingent, known or unknown, past and present, asserted or that could have been asserted, in any way relating to or arising out of the Billing Disputes or the FCC Complaints.
8. **COMPROMISE.** The Parties agree that this Confidential Billing Settlement Agreement is the compromise of disputed billing claims and all issues raised in the FCC Complaints.
9. **NO ADMISSIONS.** This Confidential Billing Settlement Agreement does not constitute an admission by either Party of the truth or merit of any fact, any asserted principle of law, any matter, claim, or cause of action alleged or asserted in any legal regulatory or other forum, past, present or future, relating to the matters addressed in this Confidential Billing Settlement Agreement. This Confidential Billing Settlement Agreement also does not constitute an admission with respect to the appropriateness or legality of any charges, billed or unbilled, whether paid or unpaid.
10. **ARBITRATION.** In the event that either Party asserts that the other Party has breached its obligations under this Confidential Billing Settlement Agreement, the Parties agree to submit the dispute to binding arbitration, closed to the public, and conducted by the Rules of the American Arbitration Association. Each Party shall be responsible for its own fees and costs. The Parties shall equally share the fees and expenses of the arbitrator. Any arbitration proceedings shall be held in a location mutually agreed to by the Parties. The Parties agree that the arbitrator only shall have authority to award compensatory damages or provide for injunctive relief, but that the arbitrator shall not have authority to award punitive, special, consequential, or similar damages.
11. **ENTIRE AGREEMENT REGARDING BILLING DISPUTES; NO EFFECT ON INTERCONNECTION ARRANGEMENTS.** This Confidential Billing Settlement Agreement is the entire agreement between Arch and U S WEST regarding the Billing Disputes and the FCC Complaints and replaces any previous understanding or agreement regarding these matters. This Confidential Billing Settlement Agreement relates only to settlement of the Billing Disputes and the FCC Complaints, but it does not establish any duties regarding the new interconnection agreements required by Section 3 above. Any modification to

this Confidential Billing Settlement Agreement must be in writing and signed by both Parties to be effective.

12. **CONFIDENTIALITY.** The Parties agree that this Confidential Billing Settlement Agreement is confidential. Each Party agrees not to disclose the terms and conditions herein, unless: (1) the other Party invokes the dispute resolution procedures set forth in Section 10 above in connection with the Billing Disputes or the FCC Complaints; or (2) the Party is required by a properly issued subpoena or other legal process to produce a copy of this Confidential Billing Settlement Agreement or otherwise is required to reveal the terms of this Confidential Billing Settlement Agreement. In either case, prior to making disclosures, the Party shall obtain an appropriate protective order or nondisclosure agreement to protect the confidentiality of this Confidential Billing Settlement Agreement and the terms hereof.
13. **APPLICABLE LAW.** The laws of the state of Colorado shall govern the interpretation of this Confidential Billing Settlement Agreement.
14. **MULTIPLE COUNTERPARTS.** This Confidential Billing Settlement Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall together constitute but one and the same document.
15. **NOTICES.** Any notice to a Party required or permitted under this Confidential Billing Settlement Agreement shall be in writing and shall be served personally, delivered by a national courier service. Upon prior agreement of the Parties' designated recipients identified below, notice may also be provided by facsimile, internet or electronic messaging system (e-mail), followed by mailing a copy of the fax/e-mail via first class U.S. mail. Any notice shall be delivered using one of the alternatives mentioned in this section and shall be directed to the applicable address indicated below or such address as the Party to be notified has designated by giving notice in compliance with this Section 15:

If to U S WEST:

U S WEST Communications, Inc.
Attention: Legal Department
1801 California Street, Suite 5100
Denver, Colorado 80202
Phone: (303) 672-2700
Fax: (303) 285-7048

If to Arch:

Arch Paging, Inc.
Dennis M. Doyle
Vice President, Telecommunications
1800 West Park Drive
Suite 250
Westborough, MA 01581-3912
Phone: (508) 870-6612
Fax: (508) 870-8012
Mdoyle@Arch.com

16. **NO WAIVER OF POSITIONS.** The Parties agree that their entering into this Confidential Billing Settlement Agreement and the other agreements contemplated herein is without prejudice to, and does not waive, any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial, or other forum addressing any matters, including matters related to interconnection arrangements and/or matters related to interconnection cost recovery generally.
17. **EFFECTIVE DATE.** The Effective Date of this Confidential Billing Settlement is June 16, 2000.

THE UNDERSIGNED DECLARE THAT THE TERMS OF THIS CONFIDENTIAL BILLING SETTLEMENT AGREEMENT HAVE BEEN COMPLETELY READ AND ARE FULLY UNDERSTOOD AND ARE VOLUNTARILY ACCEPTED FOR THE PURPOSE OF MAKING A FULL AND FINAL COMPROMISE OF THE DISPUTES BETWEEN THE PARTIES.

Arch Communications Group

Deanne M. Doyle
Deanne M. DOYLE

Name Printed/ Typed

Vice President - Telecommunications

Title

Date

6/16/2000

U S WEST Communications, Inc.

Audrey McHenry

Audrey McHenry

Name Printed/ Typed

Vice President - Wholesale Markets

Title

Finance

Date

6/16/00

CONFIDENTIAL BILLING SETTLEMENT AGREEMENT

THIS CONFIDENTIAL BILLING SETTLEMENT AGREEMENT ("Confidential Billing Settlement Agreement"), by and between Qwest Corporation formerly known as Qwest Communications, Inc. ("Qwest") and Paging Network, Inc. (together with its direct and indirect subsidiaries, "PageNet"), a wholly owned subsidiary of Arch Wireless Holdings, Inc. ("Arch"), is a complete and final settlement of the disputes described herein. Qwest and PageNet are referred to herein jointly as the "Parties" or individually as a "Party."

1. DESCRIPTION OF THE RELATIONSHIP OF THE PARTIES AND DISPUTES.

- a. PageNet and Qwest have entered into various interconnection arrangements, identified by the account information set forth on Exhibit 1 hereto, pursuant to which the Parties' respective communications networks are interconnected in the states of Arizona, Colorado, Idaho, Minnesota, Nebraska, New Mexico, Oregon, Utah, and Washington (collectively, the "Previous Interconnection Arrangements").
- b. In connection with the Previous Interconnection Arrangements, (i) PageNet asserts that Qwest must refund certain amounts paid by PageNet to Qwest for interconnection facilities, (ii) Qwest asserts that PageNet must pay Qwest for interconnection facilities provided by Qwest to PageNet, and (iii) PageNet has also claimed the right to receive reciprocal compensation payments from Qwest. These billing disputes, which cover only the period from November 1, 1998 through December 31, 2000, along with any and all other billing and payment issues related to the accounts listed on Exhibit 1 hereto arising or occurring during such period, are referred to herein as the "Billing Disputes."

2. PURPOSE OF CONFIDENTIAL BILLING SETTLEMENT AGREEMENT. The Parties desire to resolve permanently and unalterably their differences and settle all their disagreements regarding the Billing Disputes. The Parties also desire to operate under the existing Arch Interconnection Agreements (as defined below) to govern the interconnection of the Parties' networks on a going forward basis. The Parties intend that this Confidential Billing Settlement Agreement settle, resolve and extinguish any and all claims by the Parties relating to or arising out of the Billing Disputes as established in 1b. above.

3. FINAL SETTLEMENT. The Parties hereby fully, completely, and unalterably settle any and all claims by the Parties relating to or arising out of the Billing Disputes.

4. CREDIT OF ACCOUNTS. In exchange for the covenants and agreements set forth herein, within sixty (60) days from execution of this Confidential Billing Settlement Agreement, Qwest agrees to provide PageNet with bill credits totaling \$ 1,517,260.57 U.S. dollars. These bill credits will settle all billing and payment issues for the accounts listed on Exhibit 1 for the period from November 1, 1998 through December 31, 2000; and Qwest agrees not to take any action, whether before a court, regulatory agency, or other adjudicatory body, to collect any

CONFIDENTIAL BILLING SETTLEMENT AGREEMENT

THE UNDERSIGNED DECLARE THAT THE TERMS OF THIS CONFIDENTIAL BILLING SETTLEMENT AGREEMENT HAVE BEEN COMPLETELY READ AND ARE FULLY UNDERSTOOD AND ARE VOLUNTARILY ACCEPTED FOR THE PURPOSE OF MAKING A FULL AND FINAL COMPROMISE OF THE DISPUTES BETWEEN THE PARTIES.

Qwest Corporation

By: Audrey McKenney
Audrey McKenney

Title: Senior Vice President

Date: 4/23/01

Paging Network, Inc.

By: Paul Kuzia
Paul Kuzia

Title: Executive Vice President
Technology and Regulatory Affairs

Date: 4/8/01

CONFIDENTIAL BILLING SETTLEMENT AGREEMENT

March 30, 2001/Paging Network-Qwest Settlement
COS-010335-0055k